

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:15-cv-01560-JDB**

STEIN v. UNITED STATES SECURITIES AND EXCHANGE
COMMISSION

Assigned to: Judge John D. Bates

Cause: 05:552 Freedom of Information Act

Date Filed: 09/23/2015

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

MITCHELL J. STEIN

represented by **David S. Harris**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION**

represented by **William Smith Greig**
U.S. SECURITIES & EXCHANGE
COMMISSION
100 F Street, NE
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Date Filed	#	Docket Text
09/23/2015	<u>1</u>	COMPLAINT against UNITED STATES SECURITIES AND EXCHANGE COMMISSION (Filing fee \$ 400, receipt number 4616073724) filed by MITCHELL J. STEIN. (Attachments: # <u>1</u> Civil Cover Sheet)(td) (Entered: 09/29/2015)
09/23/2015		SUMMONS (3) Issued as to UNITED STATES SECURITIES AND EXCHANGE COMMISSION, U.S. Attorney and U.S. Attorney General (td) (Entered: 09/29/2015)
10/13/2015	<u>2</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES SECURITIES AND EXCHANGE COMMISSION served on 9/28/2015 (Harris, David) (Entered: 10/13/2015)
10/13/2015	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 9/29/2015. Answer due for ALL FEDERAL DEFENDANTS by 10/29/2015. (Harris, David) (Entered: 10/13/2015)
10/13/2015	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 9/28/2015. (Harris, David) (Entered: 10/13/2015)
10/29/2015	<u>5</u>	NOTICE of Appearance by William Smith Greig on behalf of UNITED STATES SECURITIES AND EXCHANGE COMMISSION (Attachments: # <u>1</u> Certificate of Service)(Greig, William) (Entered: 10/29/2015)

10/29/2015	<u>6</u>	ANSWER to <u>1</u> Complaint by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Certificate of Service)(Greig, William) (Entered: 10/29/2015)
10/30/2015	<u>7</u>	ORDER directing parties to confer and to submit a proposed briefing schedule for the filing of dispositive motions by not later than November 27, 2015. See text of order for details. Signed by Judge John D. Bates on 10/30/2015. (lcjdb2) (Entered: 10/30/2015)
10/31/2015		Set/Reset Deadlines: The parties are to submit a proposed briefing schedule for the filing of dispositive motions by 11/27/2015. (jth) (Entered: 10/31/2015)
11/27/2015	<u>8</u>	PROPOSED BRIEFING SCHEDULE (<i>Stipulation Regarding Proposed Briefing Schedule</i>) by MITCHELL J. STEIN. (Harris, David) (Entered: 11/27/2015)
11/30/2015		MINUTE ORDER: Upon consideration of <u>8</u> the parties' joint proposed briefing schedule, and the entire record herein, it is hereby ORDERED that the parties shall file any motions for summary judgment by not later than March 14, 2016; any corresponding oppositions by not later than April 4, 2016; and any corresponding replies by not later than April 18, 2016. Signed by Judge John D. Bates on 11/30/2015. (lcjdb2) (Entered: 11/30/2015)
11/30/2015		Set/Reset Deadlines: Summary Judgment motions due by 3/14/2016. Response to Motion for Summary Judgment due by 4/4/2016. Reply to Motion for Summary Judgment due by 4/18/2016. (tb) (Entered: 11/30/2015)
03/04/2016	<u>9</u>	STIPULATION <i>Regarding Proposed Revised Briefing Schedule</i> by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Certificate of Service)(Greig, William) (Entered: 03/04/2016)
03/04/2016		MINUTE ORDER: Upon consideration of <u>9</u> the parties' proposed revised briefing schedule, and the entire record herein, it is hereby ORDERED that the parties shall file any motions for summary judgment by not later than April 11, 2016; any corresponding oppositions by not later than May 2, 2016; and any corresponding replies by not later than May 16, 2016. Signed by Judge John D. Bates on 3/4/2016. (lcjdb2) (Entered: 03/04/2016)
03/07/2016		Set/Reset Deadlines: Summary Judgment motion due by 4/11/2016. Response to Motion for Summary Judgment due by 5/2/2016. Reply to Motion for Summary Judgment due by 5/16/2016. (tb) (Entered: 03/07/2016)
04/11/2016	<u>10</u>	MOTION for Summary Judgment by UNITED STATES SECURITIES AND EXCHANGE COMMISSION (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit Declaration of Kenneth Donnelly, # <u>3</u> Exhibit Decision of the Office of the General Counsel, # <u>4</u> Exhibit Vaughn Index, # <u>5</u> Statement of Facts Statement of Material Facts Not in Genuine Dispute, # <u>6</u> Text of Proposed Order)(Greig, William) (Entered: 04/11/2016)
04/11/2016	<u>11</u>	MOTION for Summary Judgment by MITCHELL J. STEIN (Attachments: # <u>1</u> Declaration of Mitchell J. Stein, # <u>2</u> Appendix (of cited out-of-state cases), # <u>3</u> Text of Proposed Order)(Harris, David) (Entered: 04/11/2016)
04/11/2016	<u>12</u>	MOTION to Take Judicial Notice by MITCHELL J. STEIN (Attachments: # <u>1</u> Text of Proposed Order)(Harris, David) (Entered: 04/11/2016)
05/02/2016	<u>13</u>	Memorandum in opposition to re <u>11</u> MOTION for Summary Judgment filed by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Exhibit SEC v. Heart Tronics, Dkt. 193-3, # <u>2</u> Exhibit SEC v. Heart Tronics, Dkt. 193-5)(Greig, William) (Entered: 05/02/2016)
05/02/2016	<u>14</u>	RESPONSE re <u>10</u> MOTION for Summary Judgment filed by MITCHELL J. STEIN. (Attachments: # <u>1</u> Affidavit of Mitchell Stein, # <u>2</u> Statement of Genuine Issues, # <u>3</u> Text of Proposed Order)(Harris, David) (Entered: 05/02/2016)
05/02/2016	<u>15</u>	MOTION to Take Judicial Notice by MITCHELL J. STEIN (Attachments: # <u>1</u> Text of Proposed Order)(Harris, David) (Entered: 05/03/2016)
05/16/2016	<u>16</u>	REPLY to opposition to motion re <u>10</u> MOTION for Summary Judgment filed by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Greig, William) (Entered: 05/16/2016)

05/16/2016	<u>17</u>	REPLY to opposition to motion re <u>11</u> MOTION for Summary Judgment filed by MITCHELL J. STEIN. (Attachments: # <u>1</u> Declaration of Mitchell Stein, # <u>2</u> Declaration of David Harris, # <u>3</u> Declaration of Rasika Reichardt)(Harris, David) (Entered: 05/16/2016)
05/16/2016	<u>18</u>	MOTION to Take Judicial Notice by MITCHELL J. STEIN (Attachments: # <u>1</u> Text of Proposed Order)(Harris, David) (Entered: 05/16/2016)
02/27/2017		MINUTE ORDER: Upon consideration of the briefs and record in this case, the parties are hereby ORDERED to file supplemental briefs updating the Court on the status of the criminal case against Stein in the Southern District of Florida and the Eleventh Circuit, as well as the enforcement action against Heart Tronics in the Central District of California and the Ninth Circuit. In addition, the declaration of Kenneth Donnelly submitted by the SEC identifies six documents that the SEC has agreed to produce in full to the plaintiff. The Court would like an update as to whether those documents have been produced. The parties may also update the Court on any other developments relevant to this dispute. The supplemental briefs shall not exceed 7 pages and shall be filed by not later than March 6, 2017 at 5 p.m. SO ORDERED. Signed by Judge John D. Bates on 2/27/17. (lcjdb2) (Entered: 02/27/2017)
02/27/2017		Set/Reset Deadlines: Supplemental briefs due by 3/6/2017. (tb) (Entered: 02/27/2017)
03/01/2017		Set/Reset Deadlines: Supplemental Memorandum due by 5:00 p.m. on 3/6/2017. (tb) (Entered: 03/01/2017)
03/06/2017	<u>19</u>	SUPPLEMENTAL MEMORANDUM to re <u>10</u> MOTION for Summary Judgment filed by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Greig, William) (Entered: 03/06/2017)
03/06/2017	<u>20</u>	SUPPLEMENTAL MEMORANDUM to re Order,,, <i>dated February 27, 2017</i> filed by MITCHELL J. STEIN. (Harris, David) (Entered: 03/06/2017)
03/06/2017	<u>21</u>	MOTION to Take Judicial Notice by MITCHELL J. STEIN (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Text of Proposed Order)(Harris, David) (Entered: 03/06/2017)
03/09/2017	<u>22</u>	Order granting in part and denying in part <u>12</u> <u>15</u> <u>18</u> <u>21</u> plaintiff's motions for judicial notice. See text for details. Signed by Judge John D. Bates on 3/9/17. (lcjdb2) (Entered: 03/09/2017)
07/24/2017	<u>23</u>	ORDER granting in part and denying in part <u>10</u> the government's motion for summary judgment, and denying <u>11</u> plaintiff's motion for summary judgment. See text of order and accompanying memorandum opinion for details. Signed by Judge John D. Bates on 7/24/17. (lcjdb2) (Entered: 07/24/2017)
07/24/2017	<u>24</u>	MEMORANDUM AND OPINION granting in part and denying in part <u>10</u> the government's motion for summary judgment, and denying <u>11</u> plaintiff's motion for summary judgment. See text of opinion and accompanying order for details. Signed by Judge John D. Bates on 7/24/17. (lcjdb2) (Entered: 07/24/2017)
07/25/2017		Set/Reset Deadlines: Proposed Briefing Schedule due by 8/4/2017. (tb) (Entered: 07/25/2017)
08/04/2017	<u>25</u>	PROPOSED BRIEFING SCHEDULE re <u>23</u> Order on Motion for Summary Judgment,,, <i>and Agreed Proposed Schedule re Numbered Items in Order</i> by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Certificate of Service)(Greig, William) (Entered: 08/04/2017)
08/08/2017	<u>26</u>	ORDER setting schedule for further proceedings. See text for details. Signed by Judge John D. Bates on 8/8/17. (lcjdb2) (Entered: 08/08/2017)
08/08/2017		Set/Reset Deadlines: Renewed Summary Judgment motion due by 4/3/2018. Response to Motion for Summary Judgment due by 4/24/2018. Reply to Motion for Summary Judgment due by 5/8/2018. Vaughn Index due by 10/3/2017. (tb) (Entered: 08/08/2017)
08/18/2017	<u>27</u>	AFFIDAVIT re <u>26</u> Order -- <i>Declaration of Carin Cozza</i> -- by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Certificate of Service)(Greig, William) (Entered: 08/18/2017)

10/03/2017	<u>28</u>	AFFIDAVIT re <u>26</u> Order <i>SEC Supplemental Filing Attaching Declaration of Rachel Nonaka</i> by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Declaration of Rachel Nonaka, # <u>2</u> Certificate of Service)(Greig, William) (Entered: 10/03/2017)
02/02/2018	<u>29</u>	AFFIDAVIT re <u>26</u> Order <i>SEC Supplemental Filing Attaching Declarations of Timothy Milloff and Carin Cozza</i> by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Declaration of Timothy Milloff, # <u>2</u> Declaration of Carin Cozza, # <u>3</u> Certificate of Service)(Greig, William) (Entered: 02/02/2018)
04/03/2018	<u>30</u>	Joint MOTION to Continue <i>Briefing Schedule for Renewed Summary Judgment Motions</i> by MITCHELL J. STEIN (Attachments: # <u>1</u> Text of Proposed Order)(Harris, David) (Entered: 04/03/2018)
04/04/2018		MINUTE ORDER: Upon consideration of <u>30</u> the parties' joint motion to extend the briefing schedule, and the entire record herein, it is hereby ORDERED that the motion is GRANTED nunc pro tunc; it is further ORDERED that any renewed motions for summary judgment shall be filed by not later than April 17, 2018, any oppositions shall be filed by not later than May 8, 2018, and any replies shall be filed by not later than May 22, 2018. SO ORDERED. Signed by Judge John D. Bates on 4/4/2018. (lcjdb2) (Entered: 04/04/2018)
04/04/2018		Set/Reset Deadlines: Renewed Motions for Summary Judgment due by 4/17/18; Oppositions to Renewed Motions for Summary Judgment due by 5/8/18; Replies to Renewed Motions for Summary Judgment due by 5/22/18. (kk) (Entered: 04/04/2018)
04/17/2018	<u>31</u>	MOTION for Summary Judgment by UNITED STATES SECURITIES AND EXCHANGE COMMISSION (Attachments: # <u>1</u> Certificate of Service)(Greig, William) (Entered: 04/17/2018)
04/17/2018	<u>32</u>	MOTION for Partial Summary Judgment by MITCHELL J. STEIN (Attachments: # <u>1</u> Statement of Material Facts as to which there is no Genuine Issue, # <u>2</u> Text of Proposed Order)(Harris, David) (Entered: 04/17/2018)
05/08/2018	<u>33</u>	RESPONSE re <u>31</u> MOTION for Summary Judgment filed by MITCHELL J. STEIN. (Attachments: # <u>1</u> Statement of Genuine Issues)(Harris, David) (Entered: 05/08/2018)
05/08/2018	<u>34</u>	Memorandum in opposition to re <u>32</u> MOTION for Partial Summary Judgment filed by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Certificate of Service)(Greig, William) (Entered: 05/08/2018)
05/15/2018	<u>35</u>	NOTICE of Change of Contact Information by MITCHELL J. STEIN (Harris, David) (Entered: 05/15/2018)
05/22/2018	<u>36</u>	REPLY to opposition to motion re <u>31</u> MOTION for Summary Judgment filed by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Declaration Declaration of Amber Barss, # <u>2</u> Certificate of Service)(Greig, William) (Entered: 05/22/2018)
05/22/2018	<u>37</u>	REPLY to opposition to motion re <u>32</u> MOTION for Summary Judgment filed by MITCHELL J. STEIN. (Harris, David) Modified to add correct linkage on 5/23/2018 (ztd). (Entered: 05/22/2018)
10/26/2018	<u>38</u>	Upon consideration of <u>31</u> defendant's renewed motion for summary judgment and <u>32</u> plaintiff's motion for partial summary judgment, and the entire record herein, it is hereby ORDERED that the parties file supplemental materials. See text of Order for details. Signed by Judge John D. Bates on 10/26/2018. (lcjdb2) (Entered: 10/26/2018)
10/30/2018		Set/Reset Deadlines: Supplemental Brief due by 11/26/2018. Supplemental Declarations due by 11/26/2018. Response due by 12/17/2018 (tb) (Entered: 10/30/2018)
11/26/2018	<u>39</u>	SUPPLEMENTAL MEMORANDUM to re <u>31</u> MOTION for Summary Judgment filed by UNITED STATES SECURITIES AND EXCHANGE COMMISSION. (Attachments: # <u>1</u> Exhibit Declaration of Rachel Nonaka, # <u>2</u> Certificate of Service)(Greig, William) (Entered: 11/26/2018)
12/15/2018	<u>40</u>	RESPONSE re <u>39</u> Supplemental Memorandum, filed by MITCHELL J. STEIN. (Attachments: # <u>1</u> Exhibit A)(Harris, David) (Entered: 12/15/2018)

02/19/2019	<u>41</u>	ORDER granting <u>31</u> the government's motion for summary judgment, and denying <u>32</u> plaintiff's motion for partial summary judgment. See text of Order and accompanying memorandum opinion for details. Signed by Judge John D. Bates on 2/19/2019. (lcjdb2) (Entered: 02/19/2019)
02/19/2019	<u>42</u>	MEMORANDUM OPINION. Signed by Judge John D. Bates on 2/19/2019. (lcjdb2) (Entered: 02/19/2019)